IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL.

Writ Petition no. 1097 (SS)2004.

Zahid Ahmad Khan S/o late Nadir Shah Khan,
Resident of village Kasampur Gadi,
Tehsil Nagina, District Bijnaur. .....Petitioner.

Versus

1. State of Uttaranchal, through Secretary Revenue, Secretariat, Dehradun,
2. Commissioner, Kumaon Division, Nainital,
3. Deputy Commissioner, Nainital, Uttaranchal,
4. District Magistrate/Collector, Nainital,
5. State of U.P. through Secretary Revenue, Civil Secretariat, Lucknow. .....Respondents.

Sri Anurag Bisara, learned counsel for the petitioner,
Sri Subhash Upadhyay, learned Standing Counsel for the State of Uttaranchal.
Smt. Beena Pandey, learned Standing Counsel for State of U.P.

Hon'ble M.M. Ghildiyal, J.

Heard Sri Anurag Bisaria, learned counsel for the petitioner, Sri Subhash Upadhyay, learned Standing Counsel for the State of Uttaranchal/ respondent nos. 1 to4 and Smt. Beena Pandey, learned Standing Counsel for State of U.P./ respondent no. 5.

By means of this writ petition, the petitioner have prayed for the following reliefs:-

i. To issue a writ, order or direction in the nature of mandamus commanding the respondents to pay the family pension/ regular pension to the petitioner which should not be less than 50% of the last salary drawn

instead of 30% of the salary (taking in to consideration the G.O. dated 13.04.2000),

ii. To issue a writ, order or direction in the nature of mandamus commanding the respondents to pay the arrears of pension and other consequential benefits of the petitioner after calculating the total length of the service of the petitioner w.e.f. 1943 alongwith interest @ 18% per annum,

iii. To issue or grant any other order or direction, which this Hon'ble Court deems fit and proper in the circumstances of the case,

iv. Award the cost of the petition to the petitioner.

Learned counsel for the petitioner fairly conceded that the petitioner is getting pension, however, he claims that the petitioner should have been paid 50% of the last salary drawn instead of 30% of the last salary; taking into consideration the G.O. dated 13.04.2000. He has further prayed that his services should have been reckoned and calculated w.e.f. 1943 for the purposes of pensionary benefits.

During the course of arguments, learned counsel for the petitioner confined his prayer that he has already made representation before the District Magistrate, Nainital on 10.01.2002, which is annexed as annexure no. 8 to the writ petition and the District Magistrate may be directed to take decision on his representation within the period prescribed by the Court.

The prayer is innocuous.

Accordingly, the District Magistrate, Nainital is directed to take decision on the representation of the petitioner dated 10.01.2002 (annexure no. 8 to the writ petition) within a period of two weeks from the date of production of a certified copy of this order.

With this direction, the writ petition is finally disposed of. No order as to costs.

(M.M. Ghildiyal, J.)

December 5, 2006:
NCM: